

MONTANA LEGISLATIVE HISTORY

Chapter 363 19 69

Bill H 382 S _____

Original bill & history ✓ C

H. Committee on Public Health

Hearing Date(s) 2/1 ✓ C

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Date Out _____ C

S. Committee on Public Health

Hearing Date(s) 2/25 ✓ C

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Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

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1 House BILL NO. 382

2 INTRODUCED BY FAGG Quist

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO NURSING HOMES
5 AND NURSING HOME ADMINISTRATORS; PROVIDING FOR THE LICENSING OF
6 NURSING HOME ADMINISTRATORS; TO CREATE THE MONTANA STATE BOARD
7 OF EXAMINERS FOR NURSING HOME ADMINISTRATORS; FIXING ITS
8 MEMBERSHIP, AND PRESCRIBING ITS POWERS, DUTIES AND FUNCTIONS;
9 PROVIDING REQUIREMENTS FOR LICENSURE AS A NURSING HOME ADMINIS-
10 TRATOR; PROVIDING FOR LICENSE FEES; CREATING THE STATE BOARD OF
11 NURSING HOME ADMINISTRATORS FUND; AND CONTAINING A REPEALING
12 CLAUSE."

13
14 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

15 Section 1. Definitions. For the purposes of this act, and
16 as used herein:

17 (a) The term "board" means the Montana state board of
18 examiners for nursing home administrators hereinafter created.

19 (b) The term "nursing home administrator" means a person
20 who administers, manages, supervises, or is in general adminis-
21 trative charge of a nursing home, whether such individual has
22 an ownership interest in such home, and whether his functions
23 and duties are shared with one or more individuals.

24 (c) The term "nursing home" means any institution or facility
25 defined as such for licensing purpose under state law or pursuant
26 to the rules and regulations for nursing homes by the Montana
27 state department of health, whether proprietary or non-profit,
28 including but not limited to, nursing homes owned or administered
29 by the state government or an agency or political subdivision
30 thereof.

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1 Section 2. Composition of the Board. There is hereby
2 created the state board of examiners for nursing home adminis-
3 trators which shall consist of three (3) members. The executive
4 officer of the Montana state department of health, or his
5 designee, and the administrator of the Montana state department
6 of public welfare, or his designee, shall serve ex officio without
7 the power to vote as members of such board. The members of the
8 board shall be initially appointed by the governor from a list
9 (which list shall be limited to nursing home administrators) of
10 nine (9) names submitted to the governor by the board of directors
11 of the Montana Nursing Home Association, Inc. Non-proprietary
12 nursing homes shall have at least one member on this board. One
13 (1) member shall be appointed for a term of three (3) years, one
14 (1) member shall be appointed for a term of two (2) years, and
15 one (1) member shall be appointed for a term of one (1) year;
16 thereafter, the terms of all appointive members shall be three
17 (3) years. The appointees shall be selected from a list of
18 three (3) nominees submitted for each appointee, to the governor
19 by the board of directors of the Montana Nursing Home Association,
20 Inc.

21 Any vacancy occurring in the position of an appointive member
22 shall be filled by the governor for the unexpired term, from a
23 list of three (3) names submitted to the governor by the board
24 of directors of the Montana Nursing Home Association, Inc.
25 Appointive members may be removed by the governor for cause after
26 due notice and hearing. Initial appointments of members, after
27 this act becomes effective, shall be limited to persons who are
28 approved by the executive officer of the state department of
29 health as a nursing home administrator (and serving in such
30 capacity on the effective date of this act), as such term is

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defined by this act. After initial appointments have been made, no person shall be eligible for appointment as a member unless he is the holder of a license as a nursing home administrator.

Section 3. Qualifications for License. The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

(a) he is at least twenty-one (21) years of age, of good character and of sound physical and mental health; and

(b) has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(c) has passed an examination administered by the board designed to test for competence in the subject matters referred to in subsection (b) hereof;

Provided, however, that persons meeting the standards of good character and sound physical and mental health who have been approved by the board as an "administrator" and are serving in such capacity on the effective date of this act, and who have served in this capacity continuously for at least one (1) year immediately preceeding, shall be granted a license as a "nursing home administrator". All other persons applying for a license

1 after the effective date of this act must meet the conditions and
2 requirements as may be prescribed by the board. A waiver may
3 be granted for a period of three (3) years after the effective
4 date of this act, or until June 30, 1972, whichever is earlier,
5 to allow an individual to meet the requirements as determined
6 by this board.

7 Section 4. Licensing Function. The board shall license
8 nursing home administrators in accordance with rules and
9 regulations issued, and from time to time revised by it. A
10 nursing home administrator's license shall not be transferrable
11 and shall be valid until surrendered for cancellation or suspended
12 or revoked for violation of this act or any other laws or regu-
13 lations relating to the proper administration and management of a
14 nursing home. Denial of issuance or renewal, suspension or
15 revocation under any section of this act shall be subject to
16 review by the board upon the timely written request for review
17 within thirty (30) days.

18 Section 5. Fee. (a) Each person who applies for licensure,
19 whether by examination or reciprocity, shall be required to
20 pay a fee of twenty-five dollars (\$25) at the time of such
21 application.

22 (b) Each person licensed as a nursing home administrator
23 shall be required to pay a license fee of twenty-five dollars
24 (\$25). A license shall expire on the thirty-first (31st) day
25 of December in the year for which it is issued, and shall be
26 renewable annually upon timely payment of the license fee.

27 Section 6. Fund Created. All fees collected under the
28 provisions of this act shall be paid monthly to the state
29 treasurer, who shall keep the same in a special fund to be
30 known as the state board of examiners for nursing home adminis-

1 trators fund, which fund may be used and expended by the board,
2 in addition to other funds appropriated to carry out this title,
3 to pay the compensation and expenses of members of the board, and
4 other expenses necessary for the board to administer and carry
5 out the provisions of this act.

6 Section 7. Organization and Compensation of Board. The
7 board shall elect from its membership a chairman, vice-chairman
8 and secretary-treasurer, and shall adopt rules and regulations to
9 govern its proceedings. As compensation for his services, each
10 member shall receive twenty-five dollars (\$25) a day, in addition
11 to expenses, for each day of actual service in the performance of
12 his duties. All members shall be allowed necessary travel and
13 living expenses, as may be approved by the board, which shall
14 be payable in the same manner as travel expense of other state
15 officials.

16 Section 8. Exclusive Jurisdiction of Board. The board
17 shall have exclusive authority to determine the qualifications,
18 skill and fitness of any person to serve as an administrator of
19 a nursing home under the provisions of this act, and the holder
20 of a license under the provisions of this act shall be deemed
21 qualified to serve as the administrator of a nursing home for all
22 purposes.

23 Section 9. Duties of the Board. The board shall have the
24 duty and responsibility to:

25 (a) Develop, impose and enforce standards which must be
26 met by individuals in order to receive a license as a nursing
27 home administrator, which standards shall be designed to insure
28 that nursing home administrators shall be individuals who are of
29 good character and are otherwise suitable, and who, by training
30 or experience in the field of institutional administration, are

1 qualified to serve as nursing home administrators.

2 (b) Develop and apply appropriate techniques, including
3 examination and investigations, for determining whether individuals
4 meet such standards.

5 (c) Issue licenses to individuals, after application of
6 such techniques, determined to meet such standards, and for
7 cause, after due notice and hearing, to revoke or suspend licenses
8 previously issued by the board in any case where the individual
9 holding such license is determined substantially to have failed
10 to conform to the requirements of such standards. Provided,
11 however, the board may, in its discretion, defer execution of
12 its order of revocation or suspension for the purpose of permitting
13 continuity of care for patients when the need for such continuity
14 of care outweighs any harm or danger which might result from the
15 failure of such nursing home administrator to be licensed thereby
16 resulting in the necessary closure of a nursing home.

17 (d) Establish and implement procedures designed to insure
18 that individuals licensed as nursing home administrators will,
19 during any period that they serve as such, comply with the
20 requirements of such standards.

21 (e) Upon receipt of a written and signed complaint, an
22 investigation of the matter contained in the complaint shall be
23 initiated. At its next meeting, the complaint shall be presented
24 to the board together with the report of investigation and
25 recommendations and on the basis thereof, the board shall
26 determine the action to be taken.

27 (f) Conduct a continuing study and investigation of nursing
28 home administrators within the state with a view to the improve-
29 ment of the standards imposed for the licensing of such adminis-
30 trators and of procedures and methods for the enforcement of such

standards with respect to administrators of nursing homes.

(g) Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this act, and make provisions for the conduct of such courses and their accessibility to residents of this state, unless it finds that there are sufficient number of courses conducted by others within this state to meet the needs of the state. In lieu thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this act.

Section 10. Renewal of License. Every holder of a nursing home administrator's license shall renew it annually by payment of the required fee for the next subsequent year, prior to the expiration of his currently valid license on the thirty-first (31st) day of December. Renewals of licenses shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such a manner, or under circumstances, as would constitute grounds for suspension or revocation of a license.

Section 11. Reciprocity. The board may issue at its discretion a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified.

Section 12. Misdemeanor. It shall be unlawful and constitute a misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator, issued in accordance

1 with the provisions of this act.

2 Section 13. Professional License Taxes Not Prohibited.

3 No provision of this act shall be construed as prohibiting
4 or preventing a municipality or county from fixing, charging,
5 assessing or collecting any license fee, registration fee, tax
6 or gross receipt tax on any profession covered by this act or
7 upon any related profession or anyone engaged in any related
8 profession governed by the provisions of this act.

9 Section 14. Laws in Conflict Repealed. All acts and parts
10 of acts in conflict herewith are hereby repealed.

11 Section 15. Effective Date. This act shall take effect
12 on July 1, 1969.

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PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

41st Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HOUSE BILL NO. 352 Brand, Feda, Polich, Jurcich, Staigmiller, Perry, Wolf, Laeth, Gunderson	REGULATING THE NUMBER OF EMPLOYEES IN RAILROAD ENGINES FOR PROTECTION AGAINST COLLISIONS	1-24-69		1-29-69 Transferred to Business & Industry			
HOUSE BILL NO. 364 Pat Williams, Gunderson, Staigmiller, Gilligan, Comney, Watt	TO INCLUDE HOSPITALS WITHIN THE DEFINITION OF PUBLIC UTILITY	1-24-69	2-1-69		2-1	DO NOT PASS	KILLED IN HOUSE
HOUSE BILL NO. 365 McGrath, Aubert, Nugent, Robbins, Glennen	TO PROVIDE FOR INSPECTION OF DANGEROUS STRUCTURES BY MUNICIPAL FIRE CHIEFS	1-24-69	2-1-69		2-5	DO NOT PASS	KILLED IN HOUSE
HOUSE BILL NO. 374 Steele, Whitney	TO PROVIDE FOR THE RECOVERY OF ASSISTANCE TO MEDICAL AID FOR THE AGED	1-24-69	2-1-69		2-5	DO PASS	TO GOVERNOR 3-6
HOUSE BILL NO. 376 Ranston, Bardanouve, Speare	CREATING A STATE BOARD OF EUGENICS TO ADMINISTER VOLUNTARY STERILIZATION OF MENTALLY RETARDED	1-24-69	2-1-69	Re-referred to Committee to be considered with HB 404	2-1 2-4	DO PASS DO PASS	IN ENROLLING 3-6
HOUSE BILL NO. 377 Choonover	TO PROHIBIT SALE OF INSECTICIDE OF CHLORINATED HYDROCARBON FAMILY	1-24-69	2-8-69		2-10	DO NOT PASS	KILLED IN HOUSE
HOUSE BILL NO. 382 Agg, Aubert	TO CREATE A BOARD FOR NURSING HOME ADMINISTRATORS	1-24-69	2-1-69		2-1	DO PASS	IN ENROLLING 3-6

HOUSE BILL #382 -- SPONSOR: Representative Harrison G. Fagg, said this bill is for licensing amendments for nursing homes if Montana is to get funds for nursing homes.

PROPOSERS:

Rod Gudgel stated he has spent the last 5 years organizing licensed nursing homes. William Bompert of Alhambra Manor, Chairman of Legislative Committee on Nursing Homes, stated he had some amendments which he thought should be put into the bill. The amendments were given to the Secretary for incorporation into minutes.

Mr. Carlson stated that if this amended bill is passed, it will meet federal requirements and that nursing homes were paid 2 million dollars in funds during 1968 and that these funds were liable to be withdrawn if this license law was not passed.

Discussion followed. Witnesses were excused. Mr. Healy moved that House Bill 382 AS AMENDED, DO PASS. Motion seconded. Motion carried.

Mr. Cranston told the committee that the sub-committee of which he was chairman, wanted to seek the passage of substitute House Bill 234 and that House Bill 244 do not pass. Mr. Healy moved that House Bill 244 DO NOT PASS. Mr. Fagg seconded. Motion carried. Mr. Campbell moved that Substitute House Bill 234 DO PASS, AS AMENDED. Mr. Healy seconded. Motion carried.

HOUSE BILL #374 -- SPONSOR: Representative Steele

PROPOSERS:

Dan Mizner, representing the State Welfare Board, said this bill would permit collections for recovery of money state and county have put into welfare during the years July 1, 1965 to June 30, 1967.

HOUSE BILL #390 -- SPONSOR: Joe Brand, District 22A, said this bill pertained to ambulances, the operation and maintenance of, and equipment contained in ambulances and first aid training for personnel of the ambulances in regard to the Highway Safety Act of 1966.

PROPOSERS:

Howard Farley, and his statement is attached hereto and made a part hereof.

Dr. John Anderson, Director of State Department of Health, said this is an important piece of legislation for a modest amount of money. The \$30,000 of the general fund money matched with federal funds has been figured pretty closely. Urged passage of bill.

Jack Carlson, Public Welfare, said they have responsibility for ambulance services and this is difficult without some type of standard setting a policy to deny a claim when they send it in. They have relied on the State Board of Health and Ambulance Association but still get threats of being sued.

Terry Bass, Montana Highway Safety Director out of the Governor's Office, presented some endorsement material to the committee and said this is one area in which we are moving ahead at a tremendous pace. Montana has been utilizing federal assistance funds to implement training and education to people in 8 counties, plus, through Mr. Farley's program, it will be offered in outlying places. This would give us a set of standards to work with, a base to secure more federal assistance to county and state levels. We are fulfilling the basic requirements as outlined. Several agencies have endorsed this program.

Ralph Beck, Powell County, said the last Legislative Session did help smaller communities by passing legislation to get some assistance from counties. This is a very needed piece of legislation. Very much in favor.

Bill Leary, Montana Hospital Association, said this is greatly needed. Ambulances and hospitals, drivers and attendants will be better equipped and better trained. It might help to bring patients in safely.

STATEMENT REGARDING HB No. 382

I am Jack R. Carlson, Director of Medical Assistance for the Montana State Department of Public Welfare. It is important that this bill to license nursing home operators be passed in order for Montana to comply with the latest amendments to the Social Security Act passed by Congress. If we do not have some kind of state licensing requirements of this nature, we cannot make payments to nursing homes under the present Medical Assistance Program. More than two million dollars was paid to skilled nursing homes in 1968 by the Medical Assistance program.

I think HB 382 would meet the requirements of the federal legislation with one addition to meet possible objections. Federal regulations allow a waiver for a nursing home operator of only 2 years from the beginning of the implementation or by June 30, 1972. By that time, every nursing home operator would have had to take a written examination or meet specified educational requirements. There is no provision in the federal law for a blanket grandfather clause beyond the two year waiver.

Sec. 3.
The suggested addition would start on page 4, line 6 and read as follows:

Amended

"The minimum standards for qualification established by said Board shall comply with the requirements, if any, set forth in Title XIX of the Social Security Act, as amended, 1967 (P.L. 90-248)"

The Committee might want to give further consideration to Sec. 2 of this bill relating to submission of Board nominees to the Governor. Since the Montana Nursing Home Association does not represent a majority of nursing homes in the state, all nursing homes should have the opportunity to make nominations.

Finally, the effective date of this legislation might more appropriately be July 1, 1970 to provide more time for proper implementation.

Jack R. Carlson
February 1, 1969

MONTANA NURSING HOME ASSOCIATION

STATEMENT IN SUPPORT OF HOUSE BILL NO. ³⁸²~~238~~

February 1, 1968

Mrs. Chairman and members of the committee:

I am Roderic R. Dudgeh, executive secretary and registered lobbyist for the Montana Nursing Home Association.

With respect to House Bill No. ³⁸²~~238~~, I want to further qualify myself as a witness by saying that I spent a recent ⁽⁵⁾ five years of my life organizing the professional and vocational licensing division, consisting of twenty-seven (27) such boards in another governmental jurisdiction and served as executive secretary to nine of the medically related boards in said division.

The Montana Nursing Home Association solicits your favorable consideration of H. B. ~~238~~ 382.

House Bill No. ~~708~~ 382

on page 6 of the printed copy of the bill by deleting the words "the action to be taken" which appear in line 26, and substituting the words "whether to bring charges and provide for a hearing".

Amend Section 15, beginning at line 11 on page 8 of the printed copy of the bill, to read as follows:

"Section 15. Judicial Review. Any order or decision of the board relating to examination and licensure or revocation or suspension of license may be reviewed by the district court upon timely application to such court.

BILL NO.	ENTERED COMM.	COMMITTEE ON						BE NOT CONCURRED IN	BE ADOPTED
		OUT. OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON- CURRED IN	BE CONCURRED IN AS AMENDED		
HB 97	2/7/69	2/24/69				X			
HB 234	2/8/69	2/19/69					X		
HB 241	2/6/69	2/19/69				X			
HB 382	2/8/69	2/26/69					X		
SR 8	2/10/69	2/19/69							X
HB 314	2/13/69	2/27/69				X			
HB 471	2/13/69	2/26/69				X			
HB 533	2/13/69	2/24/69						X	
SR 12	2/13/69	2/19/69							X
HB 355	2/14/69	2/21/69						X	
HB 328	2/14/69	2/21/69						X	
HB 508	2/14/69	2/25/69				X			

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MINUTES

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
STATE SENATE

February 25, 1969

A meeting of the Public Health, Welfare and Safety Committee was called to order by Vice Chairman Bollinger in Room 442 on adjournment on February 25, 1969. Roll call was taken; Senators Flynn, Shugrue and Stephens were absent.

HOUSE BILL 508: Representative Fasbender, author of the bill, introduced Mrs. Herva Simpson, President of the Montana State Nursing Association, explained HB 508. Her statement is attached and made a part of these minutes.

Another proponent was Debra Hay, President of the Licensed Practical Nursing Association.

Mr. Chad Smith appeared, not as an opponent or proponent, but just to make the statement that the Montana Hospital Association would no longer offer general opposition to the bill if the amendments accepted by the House were accepted by the Senate.

HOUSE BILL 382: Rod Gudgel, lobbyist for the Montana Nursing Association, explained the bill stating that this bill will allow for continued participation of federal programs under Title 13. It is necessary to pass this legislation in order to obtain \$3,000,000 dollars for the Title 19 programs. This bill also creates the State Board of Examiners for Nursing Home Administrators, fixing its membership at 5 and provides license fees, etc.

Mr. Carlson, State Department of Public Welfare, also appeared as a proponent.

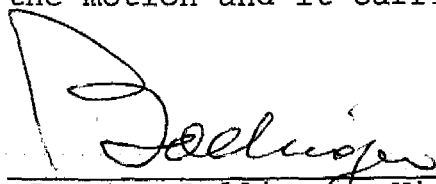
The witnesses were excused.

Senator Dzivi moved that HOUSE BILL 508 BE CONCURRED IN.
The motion was seconded by Senator Reber and carried.

Senator Dzivi moved to delete the amendments to HB 382 added by the House. Senator Bennett seconded the motion and it carried.

Senator Dzivi moved that HOUSE BILL 382 AS AMENDED BE CONCURRED IN. Senator Bennett seconded the motion and it carried.

The meeting was adjourned.



Senator Bollinger, Vice Chairman

recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of country-wide expense experience.

(b) In promulgating such rules and plans the commissioner shall give due consideration to the rating systems in use in this state and, in order that such rules and plans may be as uniform as is practicable among the several states to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system used by it.

(c) The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

Repealing clause.

Section 37. Sections 40-3601 through 40-3633, R.C.M. 1947, are hereby repealed.

Approved: March 14, 1969.

CHAPTER NO. 363

An Act Relating to Nursing Homes and Nursing Home Administrators; Providing for the Licensing of Nursing Home Administrators; to Create the Montana State Board of Examiners for Nursing Home Administrators; Fixing Its Membership, and Prescribing Its Powers, Duties and Functions; Providing Requirements for License as a Nursing Home Administrator; Providing for License Fees; Creating the State Board of Nursing Home Administrators' Account; Containing a Repealing Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** For the purposes of this act, and as used herein:

"Board."

(a) The term "board" means the Montana state board

of examiners for nursing home administrators hereinafter created.

(b) The term "nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of an extended care facility or a nursing home, whether such individual has an ownership interest in such home, and whether his functions and duties are shared with one or more individuals.

"Nursing home administrator."

(c) The term "nursing home" means any institution or facility defined as such for licensing purpose under state law or pursuant to the rules and regulations for nursing homes by the Montana state department of health, whether proprietary or nonprofit, including but not limited to, nursing homes owned or administered by the state government or an agency or political subdivision thereof.

"Nursing home."

Section 2. **Composition of the board.** There is hereby created the state board of examiners for nursing home administrators which shall consist of five (5) members. The executive officer of the Montana state department of health, or his designee, and the administrator of the Montana state department of public welfare, or his designee, shall serve ex officio without the power to vote as members of such board. The members of the board shall be initially appointed by the governor from a list (which list shall include representatives of nursing home administrators and university units offering programs in public health or medical or nursing home care administration) of nine (9) names submitted to the governor by the board of directors of the Montana Nursing Home Association, Inc. One (1) member shall be appointed for a term of three (3) years, two (2) members shall be appointed for a term of two (2) years, and two (2) members shall be appointed for a term of one (1) year; thereafter, the terms of all appointive members shall be three (3) years. The appointees shall be selected from a list of three (3) nominees submitted for each appointee, to the governor by the board of directors of the Montana Nursing Home Associations, Inc.

Composition of board.

Any vacancy occurring in the position of an appointive member shall be filled by the governor for the unexpired term, from a list of three (3) names submitted to the governor by the board of directors of the Montana Nursing Home Association, Inc. Appointive members may be

removed by the governor for cause after due notice and hearing. Initial appointments of members representing nursing home administrators, after this act becomes effective, shall be limited to persons who are approved by the executive officer of the state department of health as a nursing home administrator (and serving in such capacity on the effective date of this act), as such term is defined by this act. After initial appointments have been made, no person shall be eligible for appointment as a member unless he is the holder of a license as a nursing home administrator.

Qualifications for licensure.

Section 3. **Qualifications for licensure.** The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

(a) He is at least twenty-one (21) years of age, of good character and of sound physical and mental health; and

(b) Has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(c) Has passed an examination administered by the board designed to test for competence in the subject matters referred to in subsection (b) hereof;

Provided, however, that persons meeting the standards of good character and sound physical and mental health who have been approved by the board as an "administrator" and are serving in such capacity on the effective date of this act, and who have served in this capacity continuously for at least one (1) year immediately preceding, may be granted a license as a "nursing home administrator" by waiver. All other persons applying for a license

after the effective date of this act must meet the conditions and requirements as may be prescribed by the board. A waiver may be granted for a period of two (2) years after the effective date of this act, or until June 30, 1972, whichever is earlier, to allow an individual to meet the requirements as determined by this board. The minimum standards for qualification established by said board shall comply with the requirements, if any, set forth in Title XIX of the Social Security Act, as amended, 1967 (P.L. 90-248).

Section 4. **Licensing function.** (a) The board shall license nursing home administrators in accordance with rules and regulations issued, and from time to time revised by it. A nursing home administrator's license shall not be transferrable and shall be valid until surrendered for cancellation or suspended or revoked for violation of this act or any other laws or regulations relating to the proper administration and management of a nursing home. Denial of issuance or renewal, suspension or revocation under any section of this act shall be subject to review by the board upon the timely written request for review within thirty (30) days.

Licensing function.

(b) If the board determines that preliminary qualifications set forth in subsections 3 (a) and 3 (b) of this act, have been met before examination it may issue a temporary permit for a period of one hundred eighty (180) days or until the date of the next subsequent examination, whichever is earlier. No temporary permit shall be issued to an applicant after the date of the first examination for which he is eligible.

Section 5. **Fees.** (a) Each person who applies for licensure, whether by waiver, examination or reciprocity, shall be required to pay a fee of twenty-five dollars (\$25) at the time of such application.

Fees.

(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board, not to exceed one hundred dollars (\$100). A license shall expire on December 31, in the year for which it is issued, and shall be renewable annually upon timely payment of the license fee.

Section 6. **Fund created.** All fees collected under the provisions of this act shall be paid monthly to the state

Fund created.

treasurer, who shall keep the same in a special account to be known as the state board of examiners for nursing home administrators' account in the earmarked revenue fund, which account may be used and expended by the state department of health, in addition to other moneys appropriated to carry out this act, to pay the compensation and expenses of members of the board, and other expenses necessary for the board to administer and carry out the provisions of this act.

Organization and compensation of board.

Section 7. Organization and compensation of board. The board shall elect from its membership a chairman, vice-chairman and secretary-treasurer, and shall adopt rules and regulations to govern its proceedings. As compensation for his services, each member shall receive twenty-five dollars (\$25) a day, in addition to expenses, for each day of actual service in the performance of his duties. All members shall be allowed necessary travel and living expenses, as may be approved by the board, which shall be payable in the same manner as travel expense of other state officials.

Jurisdiction of board.

Section 8. Exclusive jurisdiction of board. The board shall have exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a nursing home under the provisions of this act, and the holder of a license under the provisions of this act shall be deemed qualified to serve as the administrator of a nursing home for all purposes.

Duties of board.

Section 9. Duties of the board. The board shall have the duty and responsibility to:

(a) Develop, impose and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators shall be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.

(b) Develop and apply appropriate techniques, including examination and investigations, for determining whether individuals meet such standards.

(c) Issue licenses to individuals, after application of

such techniques, determined to meet such standards, and for cause, after due notice and hearing, to revoke or suspend licenses previously issued by the board in any case where the individual holding such license is determined substantially to have failed to conform to the requirements of such standards. Provided, however, the board may, in its discretion, defer execution of its order of revocation or suspension for the purpose of permitting continuity of care for patients when the need for such continuity of care outweighs any harm or danger which might result from the failure of such nursing home administrator to be licensed thereby resulting in the necessary closure of a nursing home.

(d) Establish and implement procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.

(e) Upon receipt of a written and signed complaint, an investigation of the matter contained in the complaint shall be initiated. At its next meeting, the complaint shall be presented to the board together with the report of investigation and recommendations and on the basis thereof, the board shall determine whether to bring charges and provide for a hearing.

(f) Conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes.

(g) Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this act, and make provisions for the conduct of such courses and their accessibility to residents of this state, unless it finds that there are sufficient number of courses conducted by others within this state to meet the needs of the state. In lieu thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this act.

Section 10. Renewal of license. Every holder of a nursing home administrator's license shall renew it an- Renewal of license.

nually by payment of the required fee for the next subsequent year, prior to the expiration of his currently valid license on December 31. Renewals of licenses shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such a manner, or under circumstances, as would constitute grounds for suspension or revocation of a license.

Reciprocity.

Section 11. **Reciprocity.** The board may issue at its discretion a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified.

Violation.

Section 12. **Misdemeanor.** It shall be unlawful and constitute a misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator, issued in accordance with the provisions of this act.

Professional license taxes.

Section 13. **Professional license taxes not prohibited.**

No provision of this act shall be construed as prohibiting or preventing a municipality or county from fixing, charging, assessing or collecting any license fee, registration fee, tax or gross receipt tax on any profession covered by this act or upon any related profession or anyone engaged in any related profession governed by the provisions of this act.

Repealing clause.

Section 14. **Laws in conflict repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

Judicial review.

Section 15. **Judicial review.** Any order or decision of the board relating to examination and licensure or revocation or suspension of license may be reviewed by the district court upon timely application to such court.

Effective date.

Section 16. This act is effective January 1, 1970.

Approved: March 14, 1969.

CHAPTER NO. 364

An Act to Amend Section 75-1813, R.C.M. 1947, Relating to the Provision of an Optional Basis to School Districts for Consolidation or Annexation; Such Optional Basis Providing the School Districts With a Basis of Consolidation or Annexation With or Without the Assumption of Bonded Indebtedness; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1813, R.C.M. 1947, is amended to read as follows: Amending clause.

"75-1813. **Consolidated districts—procedure in event of consolidation—annexation—bonded debts.** Any two or more school districts lying in one county may be consolidated, either by the formation of a district by consolidation, or by the annexation of one or more districts to an existing district, as hereinafter provided. *When school districts plan to proceed under the provisions of this section, they must, jointly, establish whether such consolidation proposal shall be made with or without assumption of bonded indebtedness. Dependent upon such joint decision, one of the two following options shall be used:* Consolidated districts.

A. *Option A—When two or more school districts lying in one county wish to consolidate and assume each other's bonded indebtedness, or when one or more school districts in one county wish to annex their territory to an existing district and assume its bonded indebtedness, option A shall be used.*

B. *Option B—When two or more school districts wish to consolidate and not assume each other's bonded indebtedness, or when one or more school districts in one county wish to annex their territory to an existing district and not assume its bonded indebtedness, option B shall be used.*

OPTION A

Option A.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask